

## COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled MIDDLE-EAR IMPLANT, the specification of which:

- ☒ is attached hereto.  
☐ was filed on \_\_\_\_\_ as Application Serial No. \_\_\_\_\_ and was amended on \_\_\_\_\_.  
☐ was described and claimed in PCT International Application No. \_\_\_\_\_ filed on \_\_\_\_\_ and as amended under PCT Article 19 on \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information I know to be material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim the benefit under Title 35, United States Code, §119(e)(1) of any United States provisional application(s) listed below:

U.S. Serial No.	Filing Date	Status
60/146,067	July 28, 1999	

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information I know to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

U.S. Serial No.	Filing Date	Status
09/362,722	July 28, 1999	pending

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

Country	Application No.	Filing Date	Priority Claimed
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

## Combined Declaration and Power of Attorney

Page 2 of 2 Pages

I hereby appoint the following attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Eric L. Prah, Reg. No. 32,950  
Frank R. Occhiuti, Reg. No. 35,306

Faustino A. Lichauco, Reg. No. 41,942  
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FISH & RICHARDSON P.C.  
225 Franklin Street  
Boston, MA 02110-2804

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Full Name of Inventor: SAUMIL N. MERCHANT

Inventor's Signature:

*Saumil N. Merchant*

Date:

*7/24/00*

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Acton, Massachusetts 01720

Full Name of Inventor: JOSEPH B. NADOL, JR.

Inventor's Signature:

*Joseph B. Nadol, Jr.*

Date:

*7/24/00*

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Citizenship:

U.S.A.

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Needham, Massachusetts 02192

Applicant or Patentee: Joseph B. NADOL, Jr. et al.

Serial or Patent No.:

Filed or Issued:

For:

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS**  
**(37 CFR 1.9(f) and 1.27(d)) — NONPROFIT ORGANIZATION**

I hereby declare that I am an official empowered to act on behalf of the nonprofit organization identified below:

Name of Organization: MASSACHUSETTS EYE &amp; EAR INFIRMARY

Address of Organization: 243 Charles Street  
Boston, MA 02114

Type of Organization:

- ☐ University or Other Institution of Higher Education
- ☒ Tax Exempt Under Internal Revenue Service Code (26 USC 501(a) and 501(c)(3))
- ☐ Nonprofit Scientific or Educational Under Statute of State of the United States of America  
 (Name of State: \_\_\_\_\_) (Citation of Statute: \_\_\_\_\_)
- ☐ Would qualify as tax exempt under Internal Revenue Service Code (26 USC 501(a) and 501(c)(3)) if located in the United States of America
- ☐ Would qualify as nonprofit scientific or educational under Statute of State of the United States of America if located in the United States of America  
 (Name of State: \_\_\_\_\_) (Citation of Statute: \_\_\_\_\_)

I hereby declare that the nonprofit organization identified above qualifies as a nonprofit organization as defined in 37 CFR 1.9(e) for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code with regard to the invention entitled MIDDLE-EAR IMPLANT by inventor(s) SAUMIL N. MERCHANT AND JOSEPH B. NADOL, JR. described in:

- ☒ the specification filed herewith.
- ☐ application serial no. \_\_\_\_\_, filed \_\_\_\_\_.
- ☐ patent no. \_\_\_\_\_, issued \_\_\_\_\_.

I hereby declare that rights under contract or law have been conveyed to and remain with the nonprofit organization with regard to the above identified invention.

If the rights held by the nonprofit organization are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

\*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

Full Name: \_\_\_\_\_

Address: \_\_\_\_\_

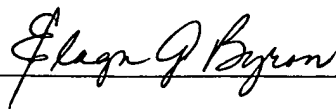
☐ INDIVIDUAL    ☐ SMALL BUSINESS CONCERN    ☒ NONPROFIT ORGANIZATION ✓

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status when any new rule 53 application is filed or prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Name:	Elayn G. Byron
Title:	Director, Research Administration
Address:	243 Charles Street, Boston, MA 02114

Signature: \_\_\_\_\_



Date: \_\_\_\_\_

